

WORKING PAPER NO. 2:
PROSPECTS FOR MIXED-USE DEVELOPMENTS
IN BERKELEY'S DOWNTOWN

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The Downtown Plan Committee

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EXECUTIVE SUMMARY

This report summarizes a series of informal interviews with developers to identify the factors that affect their capacity and willingness to develop projects that mix housing with other uses in Berkeley's downtown.

The term **mixed-use development** as used in this paper, refers only to those projects that include housing, either housing and retail or housing and office. Other mixed-use projects such as office/retail have and continue to be built in the downtown. Mixed-use housing projects have been identified by participants in the downtown planning process as a potentially desirable means by which residential uses can be integrated into the downtown.

The central finding of this effort is that mixing housing with other uses within projects in the downtown is possible, but that it is economically difficult to do given a number of important conditions. Either the housing must be very high rent or high price -- near to or even beyond what the market will bear -- or a combination of housing subsidies and change in regulatory and other conditions must be put into place.

Although developers identified a number of opportunities for mixed-uses in the downtown, they also noted serious constraints. Despite the optimal location that the downtown provides and the market possibilities that exist for housing, the costs of construction in the downtown itself are higher than other places in Berkeley. Buildable lots in the downtown are small, and there are limited sites available.

Developers also perceived that existing public policy has a discouraging effect on mixed-use (and other) development. The paper presents developers' criticisms of the permit process, zoning restrictions, and other City policies, as well as their perceptions about the economic impacts of these policies. These may or may not be correct perceptions but nonetheless affect their willingness to develop mixed-use projects.

Where appropriate, developer perceptions are supplemented in the paper by staff analysis of conditions and impacts.

Of particular importance for policy is the finding --from both staff analysis and developer perceptions-- that residential rentals for mixed-use projects that include housing would start at or above Bay Area market rents, which are well above Berkeley's current rents. This finding refocuses the issues surrounding this type of development. The principal question raised is not whether these projects are feasible, although that feasibility is limited. The primary questions are whether and how much of this type of project, which will require high residential rents absent other concerted action, is desirable in the downtown, and whether actions might be taken -- at least for some of the housing -- to make it more affordable.

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
INTRODUCTION.....	1
Methodology.....	2
Respondents.....	2
PART I: OPPORTUNITIES.....	2
Type of Mix.....	3
Housing in the Downtown.....	3
Potential Market.....	3
PART II: CONSTRAINTS.....	4
Project Components.....	5
Scale.....	5
Construction Costs.....	5
Rents.....	6
Zoning and Building Requirements.....	7
Lot Coverage.....	7
Height and Bulk.....	7
Parking.....	7
Inclusionary Zoning.....	8
Permit Process.....	8
PART III: ECONOMIC IMPACTS OF CONSTRAINTS.....	9
Survival of the Fittest.....	9
Investment Capital.....	10
Perceptions of Long-Term Economic Strangulation...	11
PART IV: MAJOR POLICY ISSUES AND RESPONSES.....	12
Feasibility vs. Desirability.....	12
Rent Analysis and Affordability.....	13
Zoning Issues.....	14
PART V: OTHER POLICY MECHANISMS.....	15
Site-Specific Approach.....	15
Downtown Special District.....	16
PART VI: CONCLUSION.....	19
ATTACHMENTS.....	22

WORKING PAPER NO. 2

OBJECTIVE: Assess Factors Affecting a Developer's Capacity to Develop Mixed-Use Projects.

INTRODUCTION:

The purpose of this working paper is to summarize the constraints and opportunities for creating projects that mix housing with either retail or office uses on individual sites in Berkeley's Downtown. Other types of mixed-use developments such as retail and office mixes have been and continue to be built in the downtown. This paper focuses on mixed-use development with a housing component because this type of project is less frequently proposed and has been seen as a means of increasing the residential population in the downtown. The Downtown Planning Committee has indicated a particular interest in the potential for this type of development. Therefore, the term "mixed-use" as used in this paper denotes projects that combine housing and other uses.

This paper is intended to enhance the planning efforts of the Downtown Plan Committee as it devises policies for the downtown. The information contained in this working paper is to supplement the data included in the economic element of the Downtown Plan Working Document.

The Office of Economic Development (OED) is currently undertaking work regarding three questions identified by the Downtown Planning Committee, Planning Commission, and the City Council in previous workshops. The central questions focused on (1) the reasons why certain types of retail businesses locate in or out of the downtown; (2) the relationship between different land uses and the impact on the retail market; and, (3) whether or not certain types of development preclude another type of development.

This report is the second of three documents that, together, will address these questions. Companion document Working Paper No. 1, which discussed why businesses locate to or from the downtown, has already been submitted. The last Working Paper will discuss the following:

- o How different land-uses are interrelated in the downtown in terms of balance, rents, and economic impact.

Methodology

In order to understand how mixed-use projects can be encouraged in the downtown, it is necessary to understand some of the issues faced by developers in designing and constructing such projects.

This report is based upon a set of informal interviews with eight developers (see Attachment for a list). The interviews were conducted in October 1987 by OED. Most of the report cites developer perceptions, which might be right or wrong but which affect their behavior nonetheless. In addition, OED conducted feasibility analyses and utilized its observations based on recent actual and proposed projects in the downtown.

Respondents

Four of these developers are located in Berkeley, one is located in Marin County, and one in Santa Cruz, and two in the Walnut Creek/Concord area. In addition, an individual who is familiar with University development activities was also interviewed.

All of the people interviewed had been involved in developing projects that mixed various uses. Some concentrated on office/retail mixes, while others had combined residential and retail. Some of these developers have specialized in small-scale developments (one lot) while others have undertaken projects as large as 90 acres.

PART I: OPPORTUNITIES:

For the purposes of this paper, "Mixed-use" always refers to a project that mixes housing with another use.

Developers identified a number of opportunities for building mixed-use projects in Berkeley's downtown. The world of opportunities, however, must be distinguished between those opportunities that developers see in a market virtually free from any intervention, and those opportunities developers identify within the context of the Berkeley environment and that are established by its policies, ordinances, etc.

Type of Mix

All the developers felt that housing could be combined with retail or office on the same site in the downtown and could work because the market potential for residential use is strong. It was noted by the developers who were interviewed, however, that the preferred development mix is housing and retail rather than housing and office. Developers are generally avoiding office use in combination with housing for a variety of reasons. The most often noted was the current Bay Area market for office space. The Berkeley market may be different. Although the office market in the Bay Area is saturated, there is strong demand for office space in Berkeley as indicated by low vacancy rates, and the fact that office projects are being proposed. Nonetheless, while developers interviewed see office and retail as complementary uses on individual projects, office in combination with housing is not as desirable to build as is housing with retail.

Housing in the Downtown

Generally developers believe that housing development could be a lucrative activity and that rental units, condominiums, and townhouses can all be built and integrated with other uses. Although the price of new housing would be very high, housing in Berkeley is in short supply and is extremely desirable. Developers see the downtown as an optimal location for housing because of its proximity to the campus, public transportation and the variety of shops, stores, and restaurants. Mixed-use housing in the downtown was thought to be ideal for the elderly, students, and couples (particularly young couples who would use BART and other public transit, and have less need for parks for their children to play in).

Potential Market

Several developers indicated that existing residential rents in Berkeley are artificially low due to rent control and other policies. In the absence of these policies and in comparison to other communities, natural market rents in Berkeley would be substantially higher than those currently found in the downtown or elsewhere in the city. Most of the developers interviewed believe that people would pay premium rents for housing in the downtown because of its proximity to the campus and the rest of the Bay Area.

PART II: CONSTRAINTS

The barriers to building mixed-use projects are set out below in the order of greatest impact as noted by the developers themselves.

First, city policies and the rules and regulations that stem from those policies are mentioned by developers as being the primary constraints to developing mixed-use projects in the downtown or elsewhere in Berkeley. Developers cited rent control and inclusionary zoning as examples of City policies which translate into real economic issues and affect financing and project feasibility. In addition, rules and regulations such as zoning requirements (density, height, parking), etc., pose constraints to the development of mixed uses that entail housing as a component of the project.

Secondly, developers were frustrated with some city officials and staff who they say perpetuate a "presumption of malice"--the concept that all developers are trying to exploit the community. Furthermore, some respondents said they felt they were being wrongfully asked to pay for society's ills or in some instances for what they perceived as Berkeley's fiscal mismanagement. Such attitudes, they felt, resulted in policies that were punitive making developers and the city combatants rather than working together to achieve a mutually desirable environment.

Thirdly, the developers interviewed identified constraints which exist as a function of the projects themselves, such as project size, construction costs, and availability of sites in the downtown. While developers indicated that these constraints were not their primary consideration, staff analysis indicates that such inherent cost factors and their impacts on rents are major constraints. Each of the project-specific constraints will be discussed in more detail below.

Project Components

There are some factors within the projects themselves that can constrain the potential for building mixed-use developments in the downtown. Among these are the scale, costs of construction, and the end rents that could be sought.

Scale

The developers noted that the scale of the project affects the feasibility of mixing different uses. For example, in large projects encompassing one full block or more, the project becomes equivalent to a mini-shopping center. The developer can then locate a couple of anchor tenants, and in

this case can include other mixes. The larger the project, the greater the opportunity to subsidize uses such as low-income housing.

However, in small projects (1-3 lot sizes), there is sometimes not enough room for a sufficient balance of rental uses to produce a successful retail project component. On the other hand, if a small project fits into a larger plan, such as a downtown area, where the uses are already mixed and in which the small project adds to or captures from existing development, then the small scale project could be profitable.

In general, it was noted that medium (3 to 5 lots) or large scale developments (one block or more) can accommodate residential uses if there are no ordinances or policies that severely impede the economic return. In applying this general discussion about the scale of mixed-use projects to the Berkeley environment, it should be noted that most of the sites available in the downtown are significantly smaller than these considered optimal.

Construction Costs

Some developers noted that the costs of any kind of construction in the Downtown were higher than in other areas of Berkeley due to limited sites, demolition, and/or rehabilitation costs. Therefore, the potential of building any kind of project in the downtown is constrained by the few sites that are available.

Developers do not feel there are major special construction costs that are unique to projects that mixed housing with other uses. Costs of dual elevators, lobbies, etc., can be eliminated or reduced by incorporating certain design components such as walkways to integrate and separate uses in the design of the structure or the project.

Developers stated that there are special requirements specific to housing that make residential uses cost more to build than office or retail space, regardless of any mixes of use. These additional costs are related to plumbing requirements for residential uses such as bathing facilities. Also residential units for the disabled are slightly more costly because bathrooms, doors, and kitchen cabinets sometimes require customization to allow for wheelchair access.

Rents

Some people pointed out that in an environment where office space could be leased at \$2.00/square foot the same rent for equivalent housing would price it out of the market. Developers noted that housing rental/sales prices would have to be at or above market rates to attract investors and to achieve a profitable outcome. In this context, "market rates" are considered to be Bay Area market rates rather than Berkeley "market rates" which are affected by rent stabilization.

Current market rents for downtown Berkeley housing average about \$1 per square foot. This is roughly in the range of Bay Area averages as well. Rents for newly constructed housing are somewhat higher, averaging about \$1.10 per square foot in Alameda County. In Berkeley, a new student housing development proposed at the southern edge of downtown is projected to rent for \$1.33 per square foot even with substantial financing subsidies and cost savings as a result of University participation. An unsubsidized, purely private project there could be expected to cost from \$1.50 up to \$2.00 per square foot, according to analysis that is discussed later in the paper, in order to pay developer costs and return a profit.

Thus there is only limited probability that developers will find mixed-use development including housing in downtown Berkeley to be economically feasible, because the rents needed to justify their investments may not be obtainable in the market. And such developments have not in fact been pursued in recent years. At a minimum, rents would be high in such development. These facts raise important issues about the desirability of housing uses and the policies needed to generate affordable housing, which are discussed further in other sections of this report.

Zoning, and Building Requirements

According to the developers interviewed, the problems of creating mixed-use projects in the downtown or elsewhere are not technical problems. A commonly expressed statement was, "the development community will build almost anything if they can make some money". But developers noted that there are some obstacles to mixed-use development in Berkeley that are a function of zoning or other requirements.

Lot Coverage

Some developers noted that the building mixed-uses to lot specifications is different or complex. For example, in commercial areas some building requirements are uncertain when housing is a part of the project. C1 zoning states that where housing is incorporated into the development R3 requirements will govern, but also notes that these requirements may be waived by the Board of Adjustments. A developer can then make a proposal, incur design costs, etc., and find that his project is not acceptable, or instead, attempt to design to the R3 standards which limit lot coverage and his potential of building enough square feet to make the project workable.

Height and Bulk

Building height and bulk regulations make mixing housing with other uses difficult when coupled with the small size of available sites. One developer noted that he could not even begin to think about mixing uses unless there was a minimum of 50,000 square feet build-out potential. On a 10,000 square foot lot, 50,000 square feet of build-out space means at least five stories in height. Another developer noted that his calculations on a particular site indicated in the downtown that a 20,000 square foot lot to begin with would require 4 stories to make it workable for him. He noted that the area of the lot adjacent to the downtown was zoned C1a and restricted building height to 3 stories. Regulations or discretionary actions that limit heights or floor area ratios can discourage mixed uses, particularly because developers see the need for substantial minimum square footages of each use within a development.

Parking

Most developers noted that parking requirements for housing differ from requirements for commercial/retail uses. In developments that mix housing and commercial uses, developers consider parking a complicating factor since many lots in the

downtown are too small to effectively accommodate retail and housing and parking for both uses. In particular, one developer noted the difficulty of providing auto access and drive-throughs on small lots which would take up ground floor retail space and make the project less aesthetically desirable as well as less feasible. Meeting parking requirements also constitutes a substantial project cost, whether for land for surface parking or for underground structures.

Inclusionary Zoning

Most developers felt that inclusionary zoning was more feasible for large-scale projects (one block or more) where costs can be taken out through the rent or sale of other units. In small projects, (2-3 lots) returns on other parts of the project cannot support the inclusionary costs. One developer said, "low-cost housing requirements effectively kill a project". His point was that some low rents on a small project affect his ability to get his costs out of the project.

On the other hand, inclusionary zoning is designed to produce some more affordable housing. How to encourage mixed-use projects, with more affordable units again is highlighted as a key issue.

Permit Process

All the developers that had experience in Berkeley agreed that the permit process was an expensive, time consuming and frustrating component of their project.

It is the perception of developers that rules and regulations are subject to political decisions. An example given was that the number of square feet allowable is perceived by developers to be subject to politics rather than to a fixed set of guidelines.

Developers noted that getting through the permit process requires up-front money. They also noted that the costs of use permits, sewer hook-ups, etc., are high. Public hearings occur during each stage of the permit process and the time between each one is costly. One developer felt that each hearing is used as a "whipping board" where the developer is on trial and where the project gets redesigned at each stage. Developers note that each time the project is redesigned, there are new costs. These unplanned costs are either subtracted from the anticipated return or they are added to the rents that will be charged when the project is completed.

This type of permit process may have impacts that are not necessarily desirable as some developers will "under build" on a site to avoid a convoluted permit process. For example, a project immediately adjacent to the downtown was built far below what was allowable for that site because the developer did not want to risk an extended permit process. It will take careful regulation to assure that such responses do not discourage mixed use.

In addition to fees and unanticipated project costs, expenses are incurred when there are long periods of waiting time for hearings and permits. During the time that permits are being obtained, the developer is holding the land and incurring costs on that land. One developer told me the process took him two years to get all his permits for a single lot development, and he estimated that the waiting time alone cost him \$50,000.

In a large project these fees and waiting time represent a small percent of total project costs over all. However, large and small-scale developers agree that for small developers and small scale projects, these costs have significant negative impacts on the project's feasibility.

PART III: ECONOMIC IMPACTS OF CONSTRAINTS

According to the developers, each of the constraints noted above have very real economic impacts. These impacts affect the type of developer that builds in Berkeley, the kind of project that is developed, the level of rent for commercial and residential uses that result, and the City's overall economy.

Survival of the Fittest

One individual noted that the fees and permit process do not necessarily discourage development. These devices only discourage certain kinds of developers, usually those that build small scale projects and those that are somewhat inexperienced.

According to the developers interviewed, the effect of both the costs of permits and the costs incurred while waiting for permits is that "the cost of admission is so high that only the big guys can play the game." The statement was echoed in one form or another by all the developers, and particularly by the local small scale developers who do not have the capital resources to sustain themselves through the

processes.

Among the developers who customarily produce large-scale developments, the costs of waiting for permits and development fees were not mentioned as a constraint. This omission validates the perception of the smaller developers that the Berkeley permit process effectively supports large-scale developments and large well capitalized developers.

Despite the perception of those individuals interviewed that small-scale developers are excluded from the development process, the experience of the OED staff is that small-scale developers continue to be involved in developing the city as can be gauged by actual and proposed projects.

Investment Capital

Developers feel that there are serious financing constraints to building mixed-use projects that include a housing component and that these constraints are a reaction to Berkeley policies.

Developers noted that financing tended to be restricted to developers with track records and those developers whose projects were quite large, and therefore, quite profitable. This bias of the finance community excludes small, relatively inexperienced developers and is particularly prejudicial to small inclusionary zoning projects where profitability is questionable.

Secondly, nearly all the developers stated that it is in general difficult to obtain financing for housing projects in Berkeley. Although they all agreed that no one would call it "redlining" the effect is the same because financial institutions are looking at the bottom line -- the ability of the project to pay back the loan. The ability of the project to pay back the loan is dependent on continuity of projected market conditions and natural fluctuations within those conditions.

Although commercial rent stabilization are no longer in effect, and despite the exclusion of new housing from residential rent control, the developers all state that the impacts of these policies have long lasting effects which impede their ability to obtain financing.

As developers pointed out, each of these policies affected the ability of the owners of existing properties to recoup their investment costs out of their property. Each of these policies was applied to developments already in existence and

for which costs had already been incurred. According to developers, these policies removed the profitability of those buildings. Thus, the introduction of these ordinances have, together, established a very high risk climate for any investor.

Developers pointed out that one of the "hidden costs of rent control" is a lack of investor confidence in the future marketability of Berkeley of mixed-use housing and retail/office projects. According to developers, housing is considered by the financial community to be one of the most precarious projects in Berkeley because of the precedent of rent control.

In the specific case of residential rent control, although developers are aware that new housing is exempt from rent control, they are quick to note that there is no guarantee that rent control will not be applied to a housing project (built new) in the future. According to developers, the long term effect of this type of policy is that projects which include housing are particularly vulnerable to investor lack of confidence. Where previously lenders might be persuaded to fund 70 or 80 percent of a project, lenders are shifting the risk factor to the developers themselves and requiring developers to provide a larger percent of the project costs. In sum, according to developers, lack of investor confidence means that capital for housing development in Berkeley is both less available and available on less advantageous terms.

Perceptions of Long-term Economic Strangulation

Most developers paint a dreary picture of the future of Berkeley's economy as a result of these policies. To them, growth constraints are seen as a means of stopping growth rather than controlling it. According to some, "no growth policies" squeeze out existing businesses and are strangling the city's economy. Some developers have trouble getting commercial tenants for their projects. As one developer said, it is his experience that commercial tenants are avoiding Berkeley because of the increasing costs of doing business in the city. His potential tenants cited increases in businesses license fees, assessments and other fees that are levied against the business community as a central reason for their reluctance to do business in Berkeley.

Some of those interviewed noted that businesses understand that fees are established to provide revenues to the city for public services. And they pointed out that with slow growth, revenues from these fees do not increase. Yet the city's costs of services continue to rise. City income is stagnant which results in more fees to increase revenues. This

strategy drives out the small commercial tenant who faces increasing business costs every year to make up for the slow growth within the city. A spiral begins where small businesses leave Berkeley and those that remain must make up for the lost revenues with higher taxes and fees.

There has not been detailed research specifically to corroborate or dispute this scenario. However, analysis of business license data indicates that businesses are neither leaving Berkeley nor dramatically increasing -- the number of businesses licenses sought city wide each year has remained stable and their gross receipts have grown faster than inflation. In downtown Berkeley, number of licenses is also stable; but gross receipts have increased at a rate just short of inflation.

Nevertheless, the developers' perception of economic decline as a result of City policies may have impacts on future development whether the perception is true or not.

PART IV: MAJOR POLICY ISSUES

One key set of policy issues that emerge from this report concern what types of people mixed-use developments will likely house and whether that is consistent with the community's vision for the downtown area. A second set of issues concern the kinds of changes that may have to be made to enable, accommodate, or encourage these projects, if the Downtown Planning Committee and wider community deem mixed-use a desirable activity. This section highlights the prime policy issues raised.

Feasibility vs. Desirability

On one hand, projects that mix housing with other uses, although somewhat constrained by physical barriers, are structurally possible in the downtown. Furthermore, the developers interviewed for this report believe that such developments have a tremendous market demand potential.

In actuality, however, few developers have come forward with projects that mix housing with other uses on individual lots. It is likely that most available sites in the downtown are too small to harmonize with the zoning requirements that affect this type of development. Height, bulk and parking requirements, and the downtown limit the potential of mixed-use development. Developers also cite difficulties of obtaining financing for housing.

Furthermore, it appears that for a project to be feasible, the end residential rents would have to be at substantially higher rates than those currently existing in Berkeley.

The latter point may have the most important policy implications for the Downtown Plan Committee. The level of rents required by projects that mix housing and other uses may not necessarily be in keeping with the community's goals for housing affordability for a diverse population. Indeed, housing rents required to offset development costs may in some cases also exceed even what the strong Berkeley market will bear, as well as exclude people of limited means.

Rent Analysis and Affordability

To better assess the housing affordability issue, OED staff conducted a detailed analysis of a mixed-use project costs and revenues. The analysis showed that even a subsidized mixed-use project is, at best, an economically marginal project because it would require very high rents

In OED's analyses, using a computerized real estate model and data representing existing local conditions, it was found that unsubsidized private sector mixed-use projects that contain housing components were not very profitable activities. That is, given interest rates at 11 percent, existing parking requirements, development fees, and residential rents at the prevailing \$1.00 per square foot level, the rate of return over a ten year period was about 1 percent (even neglecting inclusionary zoning). Generally, 15 percent is considered a "reasonable" rate of return for private investment over a ten year period.

As a further check on its analysis, OED examined cost figures for an actual mixed-use development project that is being planned by the University of California and a private developer. From a cost point of view, the University project has many special advantages: The project:

- o has significantly lower cost financing than that available in the private market (8%);
- o has less need for profitability on the housing component than would a private developer acting alone (rate of return less than 15%);
- o would not be subject to Berkeley's permit process;
- o is exempt from inclusionary zoning requirements;
- o is exempt from property taxes in its residential

component; and

- o has substantially lower overall "soft costs" for several reasons.

Despite these factors, residential rents will start at about \$1.33 per square foot. Retail spaces would start at \$2-2.50/square foot which is at the high end of the downtown's retail rental market.

Further analysis --both using the generic real estate model alone and applying the model to the University -housing case--shows that housing rents required for an unsubsidized mixed-use project to be feasible under existing conditions are very high indeed. Rents of \$1.50 to \$2.00 per square foot would be needed to support all costs. That would mean for example, renting a typical 800 sq. ft. two-bedroom apartment for \$1,200 to \$1,600/month.

The analysis clearly illustrates that private sector development of mixed-use projects will require much higher rents for residential uses than are currently available in the downtown. Even with high-end retail rents, unsubsidized private projects would have rents beyond the means of people with limited means and perhaps beyond what upper income people would be willing to pay.

This finding of course has major policy implications for the Downtown Plan Committee. It must decide whether mixed-use projects are indeed highly desirable given the likely rent range and whether and how much action might be taken -- in areas including regulation and subsidy -- to improve economic feasibility and affordability.

A critical part of any active approach to lower the necessary housing rents in mixed-use development is to find ways to subsidize the housing portion of the projects. Sources of funds could include federal and state government programs and mitigation funds from non-residential projects. These are inherently limited, however; alone they cannot greatly improve affordability for large numbers of units. Either most units will be developed at high rents, or the City might allow for in zoning and approve only smaller numbers of units per year as subsidies are available to improve affordability.

Zoning Issues

According to developers, zoning requirements have significant impact on the feasibility of mixed-used projects. If this type of development is deemed to be desirable, a number of zoning issues might be addressed as a policy matter in order

to encourage housing - commercial mixes.

Height - Building height limitations might be raised or left higher (4 stories and above) to accommodate those lots in or near the downtown that could be used for mixed-use developments.

Coverage - The density of lot use might be expanded to accommodate enough space for housing, parking and retail/office uses.

Parking - Parking requirements -- perhaps only for residential uses might have to be adjusted to reduce construction costs and allow more of available space on small sites to be used for the mixed-use buildings themselves.

These types of zoning changes may be sufficient to enable and encourage developers to produce mixed-use projects for people at the upper end of the income spectrum but will not provide for affordable housing for people of limited means. That would require substantial subsidy as well.

PART V: OTHER POLICY MECHANISMS

If projects that mix housing with other uses are deemed to be desirable for the downtown, there are a number of additional policy mechanisms, some suggested by developers, to improve project feasibility that could be explored in more detail.

Many of these suggestions for creating incentives for developing projects that mix housing with other uses in the downtown are based upon comparative experiences throughout the Bay Area and in other parts of the state.

These mechanisms are suggested as means by which a portion of the overall costs might be decreased by streamlining the permit and review process. Two types approaches are suggested:

1. Site-specific approaches that deal with individual sites in the downtown.
2. An area approach that deals with defining a planning and development area within which certain elements of process and zoning could be incorporated that would allow individual sites more flexibility.

Site-Specific Approach

The following are suggestions for actions designed to address individual sites within the downtown.

- o Create a "mixed-use category" within the zoning ordinance that governs development on specific sites where mixed-use is desired. This special building category might increase densities, decrease parking requirements, increase lot coverage, etc. The purpose is to provide for minimum project sizes necessary to encourage mixed-cost and allow cost reductions.
- o Identify all building requirements, e.g., square footage, height, bulk, lot coverage, parking, code requirements, etc., and give them to developers at the beginning of process so that all requirements can be addressed at the design stage. This would be particularly important for mixed-use projects which are complicated by separate standards for commercial and housing components.
- o Streamline permit process for this category of development.

Downtown Special District

A special district could be created for the downtown area which sets out specific development guidelines. If such a district is created, then its rules and regulations must be known inside and out by staff people in each department so that developers can get consistent answers to their questions in a timely way.

- o Create building and zoning requirements that are applied to the entire district rather than to specific sites.

Within this district, specific sites in the downtown could be exempt from some requirements provided they were developed for desired uses. For example, strategic areas for parking structures could be identified which could allow the city to waive parking requirements for buildings adjacent to that parking structure. Thus, a development could trade parking required on individual lots for parking for an entire block.

The effect is that well designed parking structures with attractive street fronts or ground level retail space could concentrate parking for a particular area by having retail, office, and residential users buy into the structure leaving individual lot space unencumbered with parking and auto entrance/exit paths.

- o Create a special permit process for developments that occur in this district.

Within this district, the governing rules and regulations could be "spelled out" in order to eliminate the perception of arbitrary applications. Clearly setting out the rules at the start might have a tremendous effect on streamlining the permit process and eliminating some of the developers costs.

Secondly, the approval process for this district might be altered. For example, a special downtown review board could be established that works with the developer at the onset to help design projects that meet the requirements necessary for approval. This board could have architectural representation and staff expertise to encourage rather than discourage ideas. This type of preliminary planning input might encourage small inexperienced developers who are overwhelmed by the process.

Third, if a proposed development meets all the development criteria, then the use permit requirements could be waived -- development "by right".

Finally, the Board of Adjustments could review downtown projects once every 3 months at a special meeting.

- o Exempt the downtown district from certain regulatory changes for a fixed period of time to allow developers to get their costs out of the property.

Within this district, a fixed period of time could be determined during which there are clearly defined rights and obligations to be fulfilled within this district. Although each project might have a varying "pay back" period, a certain period of time could be identified during which desired types of projects in the area are exempt from new ordinances (such as changes in rent control to include new buildings), rules, regulations, etc. This strategy provides a waiver of sorts for a specified period of time, so that during this period, investors are not threatened by changing policy decisions. Enterprise zones, Foreign Trade Zones, Redevelopment Districts, and Special Planning Districts are all examples that incorporate a "holding pattern" of sorts which lock in certain regulations, fees, taxes, etc., for a specified period of time.

Enterprise zones, Foreign Trade Zones, Redevelopment Districts, and Special Planning Districts are all examples that incorporate a "holding pattern" of sorts which lock in certain regulations, fees, taxes, etc., for a specified

period of time.

In addition to the two mechanisms noted above, there are some aspects of the development process that could be addressed regardless of the type of development and whether the focus was site-specific or area-specific.

- o Establish a graduated payment plan for development fees so that small/local developers can participate more readily in the process.

The city could schedule development fees, so that a developer can "pay as he goes" through the development process. For example, if a project meets the development plan, then establish a payment plan that corresponds with the project's successful completion of required steps. In this way, small local property owners can participate in the development process, and the city might have an incentive to improve the process so that it can obtain its fees. Some development fees are currently phased.

- o Trade off development fees for achieving social and economic goals.

Most of the developers had no philosophical or political disagreement with the city's desire to build housing for lower income, disabled, or other groups of people. The problem they articulated was that the responsibility must be shared by the community, and is not the sole burden of the developer.

To them, the requirement of achieving a socially and economic desirable outcome should be paid for by the city as well as the private sector. Therefore, developments that incorporate these social and economic goals should receive points and be rewarded by trading development costs for each goal achieved. Although the city has waived fees for low-income, senior, non-profit, and limited equity cooperative housing, it might also waive commercial fees in order to achieve certain results. Specific examples included trading fees on office and retail components of the project so that developers could also provide low-cost retail rental space or low-cost housing units in the same project. This approach is currently used by City staff in mitigation negotiation for projects that include housing.

All the regulations and processing changes mentioned in this section may help encourage developers to actually propose mixed-use developments, but they will not by themselves reduce costs sufficiently to provide other than upper income housing. Housing subsidies would be necessary to do that.

PART VI: CONCLUSION

A major purpose of this paper is to present developer concerns about the the constraints for building mixed-use/housing projects in the downtown. Therefore, much of the discussion in the paper reflects developers' perceptions, which might be right or wrong but which affect their behavior nonetheless. Staff analysis and research were used to supplement and test developer perceptions.

The fact is that few developers have proposed building a mixed-use housing project in the downtown.

In brief, key findings of this report are:

- o Rental rates for residential units in mixed-use downtown projects would have to be at or above current Bay Area market rates, which are substantially higher than existing Berkeley rentals.
- o Retail uses are generally a more desirable mix with housing than is office space although this may be less so in Berkeley with its lower office vacancy rates..
- o There are no major costs that are unique to mixing uses that substantially prevent or limit profitability of mixing uses.
- o Costs of any kind of construction in the downtown are higher than in other areas of Berkeley due to limited sites, size of lots, demolition, and/or rehabilitation costs.
- o Developers generally prefer medium to large scale developments (2-3 lots to one block or more) for mixed-use projects, in order to allow reasonable amounts of space for each use.
- o Certain zoning issues affect projects that mix housing with other uses. These include lot coverage, height, and parking, and inclusionary zoning which requires low-income housing. All of these zoning provisions affect the size of the project, the ability to mix uses, and the end rental rates.
- o Mixed-use/housing projects are affected by permit processes and development fees but speedy processes or low fees will not translate into affordable housing.
- o Various perceived City policies and attitudes

discourage some developers and may make project financing more difficult, but again changing these alone will have limited impact.

Developers suggest that mix-use projects are feasible; but under further analysis the feasibility of mixing housing with other uses in the downtown remains questionable. OED staff analysis both an actual and hypothetical mixed-use project found that even in the "best case scenario", a project that mixes housing with other uses is marginally profitable. Staff's comparative analysis indicates that a project which has significantly lower financing costs, significantly decreased development costs, no inclusionary zoning requirements, and no permit process costs will still require residential and retail rents that start at or above the high end of Berkeley's existing rents. overall will have minimum return on investment.

Given these facts about a "subsidized" project, it is clear that privately developed housing in the downtown will be extremely expensive. Certainly low-income privately developed housing mixed with other uses does not seem realistic within the Berkeley context without substantial subsidy, perhaps accompanied by specialized zoning incentives and permit processing improvement.

If mixed-use development in the downtown is deemed to be desirable, zoning issues such as height, parking, and lot coverage need to be addressed to improve feasibility and affordability. And major subsidies will need to be assembled if the housing is to serve other than the well-to-do.

ATTACHMENTS



ATTACHMENT 1

LIST OF INDIVIDUALS INTERVIEWED

- o Santiago Balazs, Berkeley
- o Willie Cook, Berkeley
- o Raleigh M. Davis, Walnut Creek
- o Bob Grether, Berkeley
- o Yani Michaelides, Concord
- o Nick Pappas, Berkeley
- o Miguel Podolsky, Santa Cruz
- o Rich Robbins, San Rafael
- o Dorothy Walker, Berkeley

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